

EXHIBIT 3

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: INSULIN PRICING LITIGATION

Case 2:23-md-03080
MDL No. 3080

JUDGE BRIAN R. MARTINOTTI
JUDGE RUKHSANAH L. SINGH

THIS DOCUMENT RELATES TO: ALL ACTIONS

~~PROPOSED~~ CASE MANAGEMENT ORDER #
(INITIAL DISCOVERY PLAN)

I. SCOPE AND APPLICABILITY OF ~~DISCOVERY~~ PLAN

This Initial Discovery Plan is intended to promote the just and efficient conduct of this litigation, conserve judicial and party resources, ~~minimize~~eliminate duplicative discovery, and serve the convenience of the parties and witnesses. ~~This~~The following protocol and limitations in this Case Management Order shall apply to all member cases in MDL 3080, as well as ~~the “New Jersey Actions” (as defined in Case Management Order #1 (ECF No. 5)), which are~~In re Direct Purchaser Insulin Pricing Litigation, No. 20-03426 (“Direct Purchaser Action”), which is coordinated with ~~this~~the MDL for purposes of discovery, per the Initial Case Management Order (CMO #1) and September 12th Case Management Conference.

Participation in the discovery outlined in this Initial Discovery Plan will not waive any party’s objections to jurisdiction, venue, or service.

II. DISCOVERY AND DOCUMENT PRODUCTION

A. Pursuant to CMO #1, all discovery proceedings are currently stayed. Discovery will commence immediately upon the entry of ~~this Case Management Order~~an Order by the Court adopting a Discovery Plan as discussed below. The parties agree that common subject

areas for discovery exist across ~~the member cases in this MDL and the New Jersey~~
~~Actions~~each case and propose that the parties ~~serve~~exchange Master Discovery Requests
covering these subjects ~~as described herein~~(discussed in greater detail below).

B. All parties will cooperate on all deposition-related issues, including scheduling
and 30(b)(6) topics. The parties will negotiate a separate protocol governing depositions.

~~BC.~~ Relevant Time Period:

i. The relevant time period for discovery is January 1, 2011, through
~~January 1, 2024. The parties may seek issue-specific discovery outside of~~
~~the relevant time period.~~June 7, 2021.

~~C. Relevant Drugs: The relevant drugs for discovery purposes are set forth in~~
~~Attachment A. The parties may seek issue-specific discovery beyond the list of relevant drugs.~~

D. Disclosures:

~~1.~~ The parties agree that ~~within 30 days~~ after ~~entry of this~~an Order is
entered adopting a Discovery Plan, each Plaintiff and each Defendant, ~~to~~
~~the extent they have not already done so,~~ will provide one set of initial
disclosures pursuant to ~~Federal Rule of Civil Procedure~~Fed. R. Civ. P.
26(a)(1)(A), to apply across the member actions.¹

~~2.~~ ~~The parties agree that within 14 days after entry of this Order, all~~ii.
All parties shall file the required disclosures of third-party
litigation funding ~~required~~ under Local Civil Rule 7.1.1 two weeks after a
discovery plan is entered by the Court.

¹ The parties already served initial disclosures in the Direct Purchaser Action prior to formation of the
MDL.

~~E. E-Discovery Conference: Within 30 days after entry of this Order, the parties shall conduct the E-Discovery conference required under Local Civil Rule 26.1(d).~~

~~F~~E. Master Discovery Requests:

- ~~1.i.~~ Plaintiffs in ~~the~~MDL member actions and ~~In re Direct Purchaser Insulin Pricing Litigation, Case No. 20-03426 (“the~~Direct Purchaser Action”), shall collectively ~~serve~~issue one set of Master Discovery Requests upon each Manufacturer Defendant and each PBM Defendant.
- ~~ii.~~ Manufacturer Defendants shall collectively issue one set of Master Discovery Requests ~~are limited to common issues across each Plaintiff Track and the Direct Purchaser Action. Plaintiffs~~upon each of the three Plaintiff Tracks, respectively. ² For avoidance of doubt, Manufacturer Defendants need not serve the same set of Master Discovery Requests on each ~~Defendant~~of the three Plaintiff Tracks.
- ~~2.~~ ~~Master Discovery Requests shall be limited to 30 Interrogatories and 30 Requests for Production. Master Requests for Admission may be served in accordance with Federal Rules of Civil Procedure 26 and 36.~~
- ~~3.~~ ~~In the Tracks involving class claims and the Direct Purchaser Action, the~~iii. PBM Defendants shall collectively ~~serve~~issue one set of Master Discovery Requests upon: ~~(i) Plaintiffs in the TPP Class (Manufacturer) Track; (ii) Plaintiffs in the TPP Class (PBM) Track; and (iii) Plaintiffs in the Direct Purchaser Action~~ each of the three Plaintiff

² Defendants have already served Requests for Production on the Direct Purchaser Plaintiffs.

Tracks, respectively.³ For avoidance of doubt, PBM Defendants need not serve the same set of Master Discovery Requests on each ~~Class~~of the three Plaintiff ~~Track~~Tracks.

4. ~~Within 30 days after service of the Master Discovery Requests, the responding party shall make any disclosures required under the ESI Order regarding search procedures.~~

5iv. ~~Responses to Master Discovery Requests are due 30 days after the service of~~There shall be a maximum of 30 Interrogatories and 30 Requests for Production per set in the Master Discovery Requests.⁺

v. Each individual party shall serve Responses and Objections to Master Discovery Requests within 60 days of service of the Master Discovery Requests on liaison counsel for the track. For avoidance of doubt, the obligations imposed by this Section apply to all parties participating in this MDL, along with Direct Purchaser Plaintiffs, and each individual plaintiff and defendant must respond to the Master Discovery Requests separately.

vi. Any new Defendant or Plaintiff transferred to or joined in this MDL after the entry of this order shall raise any additional, non-duplicative objections to the Master Discovery Requests within 30 days of transfer or joinder, and shall otherwise respond to served requests within 60 days of transfer or joinder.

³ Defendants have already served Requests for Production on the Direct Purchaser Plaintiffs.

~~⁺ Any new Defendant transferred to or joined in this MDL after the entry of an Order adopting a Discovery Plan shall respond to the Master Discovery Requests within 30 days of transfer or joinder.~~

~~6. Non-custodial productions shall commence within **30 days** after a party has served its responses to the Master Discovery Requests and shall continue on a rolling basis thereafter.~~

~~7. Custodial productions shall commence at the earliest of **30 days** after the parties have agreed to custodians and search terms and/or **30 days** after the Court resolves any disputes submitted by the parties. Any disputed custodians or search terms shall not be used as a basis to delay custodial production of documents for agreed upon or ordered custodians and search terms.~~

~~G. Discovery in the State Attorney General Track and Self-Funded Payer Track:~~

F. After responses to Master Discovery Requests are served and objections resolved, the parties will meet and confer regarding limited additional, non-duplicative requests, if any, on an individual basis.

~~1. The parties in the State Attorney General Track and the Self-Funded Payer Track shall meet and confer regarding the substance of stipulated Plaintiff Fact Sheets, including document requests, to be answered in all cases. See Case Management Order #2 (ECF No. 19) (ordering parties to meet and confer concerning “the need for Plaintiff fact sheets”).~~

~~2. The parties shall submit their joint proposal (or separate proposals, if necessary) within **60 days** of entry of this Order.~~

~~3. Apart from stipulated Plaintiff Fact Sheets, no other case-specific discovery may be served or undertaken by any party in the State Attorney General Track or Self-Funded Payer Track absent further Order of the Court.~~

4. ~~Further case-specific discovery will be conducted in phases within the State Attorney General Track and the Self-Funded Payer Track. Cases within each track will be grouped or pooled together for discovery purposes. The parties in each track shall meet and confer concerning the formation of discovery pools within each track and a schedule for proceeding with case-specific discovery in each pool of cases.~~
5. ~~Within **120 days** of entry of this Order, the parties in each track will provide a joint proposal (or competing proposals, if necessary) for the selection of discovery pool cases. Cases selected for the discovery pools in the State Attorney General Track and Self-Funded Payer Track will proceed with case-specific fact discovery. The parties shall meet and confer regarding a schedule for the completion of fact discovery for these discovery pools, to be completed by the deadlines set forth in Section III below.~~
6. ~~Within **180 days** of the entry of an order selecting cases for discovery pools in the State Attorney General and Self-Funded Payer Tracks, the parties will submit a joint proposal (or competing proposals, if necessary) for the selection of trial cases in the State Attorney General Track and Self-Funded Payer Track. The cases selected for trial will then proceed with expert discovery. In consultation with the Court, the parties shall meet and confer regarding a schedule for the completion of expert discovery in the cases selected for trial, to be completed by the deadlines set forth in Section III below.~~

H. ~~Discovery in the Third-Party Payer Class Tracks and Direct Purchaser Action:~~

~~Plaintiffs in the Third Party Payer Class (PBM) Track, the Third Party Payer Class (Manufacturer) Track, and the Direct Purchaser Action shall have the right to serve an additional, non-duplicative, 30 Requests for Production, 15 Interrogatories, and Requests for Admission addressing case-specific issues upon each Defendant.~~

~~I.— Depositions: All parties will cooperate on all deposition-related issues, including scheduling and 30(b)(6) topics. The parties will submit a separate protocol governing depositions no later than **June 1, 2024**.~~

~~III. DEADLINES APPLICABLE TO THE STATE ATTORNEY GENERAL TRACK AND SELF-FUNDED PAYER TRACK~~

~~The following deadlines shall apply to the State Attorney General Track and Self-Funded Payer Track:~~

| Event | Deadline |
|---|---|
| Motions to amend or to add parties | August 1, 2024 |
| Fact <u>Substantial completion of document</u> discovery deadline | June 30 <u>May 22</u> , 2025 |
| Expert reports in cases selected for trial <u>Depositions</u> <u>May Begin</u> | August 15 <u>June 23</u> , 2025 |
| Rebuttal expert reports in cases selected for trial <u>Fact Discovery Deadline</u> | September 12 <u>November 21</u> , 2025 |
| Joint proposal for the filing of motions for summary judgment and <i>Daubert</i> motions in cases selected for trial | September 26, 2025 |
| Completion of all expert discovery, including all depositions of expert witnesses, in cases selected for trial | October 31, 2025 |

~~IV. DEADLINES APPLICABLE TO THE THIRD-PARTY PAYER CLASS TRACK AND DIRECT PURCHASER ACTION~~

~~The following deadlines shall apply to the Third Party Payer Class Track and the Direct~~

~~Purchaser Action:~~

| Event | Deadline |
|---|--|
| Motions to amend or to add parties | August 1, 2024 |
| Fact discovery deadline | June 30, 2025 |
| Motions Parties meet and confer regarding submission of schedule for both class and non-class cases, including for class certification ² and expert discovery | July 30, 2025 60 days before the close of fact discovery |
| Opposition to class certification | August 29, 2025 |
| Reply in support of class certification | September 29, 2025 |
| Opening expert witness disclosures and reports for merits experts | 60 days after an order on class certification |
| Rebuttal expert witness disclosures and reports for merits experts | 30 days after merits opening reports |
| Reply expert witness disclosures and reports for merits experts | 30 days after merits rebuttal reports |
| Completion of all expert discovery, including all depositions of expert witnesses | 30 days after merits reply reports |
| Joint proposal for the filing of motions for summary judgment and Daubert motions | no later than 30 days after an order on class certification |

~~V~~IV. SPECIAL DISCOVERY MECHANISMS AND PROCEDURES

A. ~~General third-party~~Third-party discovery may commence ~~upon~~60 days after the entry filing of ~~this~~an Order. ~~Case-specific third-party discovery may proceed in accordance with the provisions of this Order related to case-specific discovery in each Track adopting a~~ Discovery Plan.

²~~Class certification opening, rebuttal, and reply expert reports shall be served with the parties' briefs.~~

B. The parties will meet and confer regarding a timeline for documents to be produced in this litigation and any supplemental discovery requests following the exchange of the Master Discovery Requests.

BC. Within **30 days** of the entry of ~~this~~an Order adopting a Discovery Plan, Defendants shall ~~produce~~reproduce to all Plaintiffs in the ~~MDL~~-member actions ~~and Plaintiffs in the Direct Purchaser Action, through Court-appointed Co-Lead Counsel, any and all Discovery Materials~~³, the documents they previously produced ~~or provided in:~~as defendants in *In re Insulin Pricing Litigation*, No. 17-cv-00699 and *Mississippi v. Eli Lilly, et al.*, No. 3:21-cv-00674. Reproductions of prior discovery may be used to satisfy a party's discovery requests.

- ~~i. *In re Insulin Pricing Litigation*, Case No. 17-699 (D.N.J.);~~
- ~~ii. *MSP Recovery Claims, Series, LLC v. Sanofi Aventis U.S. LLC, et al.*, Case No. 18-2211 (D.N.J.);~~
- ~~iii. *In re Direct Purchaser Insulin Pricing Litigation*, Case No. 20-03426 (D.N.J.);~~
- ~~iv. Any member actions in this MDL;~~
- ~~v. Any related insulin pricing cases pending in other courts;~~
- ~~vi. Any State Attorney General investigation, civil investigative demand, and/or subpoena related to insulin pricing (whether or not such State~~

³ For purposes of this Section, "Discovery Materials" means documents or data that any Defendant (or anyone acting on such Defendant's behalf) produced, provided, or made available for inspection in response to discovery requests, court orders, civil investigative demands, subpoenas, information requests, petitions, or by agreement, including documents; data; tangible things; deposition testimony; responses to interrogatories, requests for admission, requests for production of documents, or other discovery requests (including any production cover letters accompanying such responses); deposition transcripts and videos; deposition exhibits; any errata sheet for depositions; declarations, certifications, or other responses to requests for information or other written information produced as part of discovery; privilege logs; and any expert reports served by or on behalf of a Defendant.

~~Attorney General has filed insulin pricing claims). If additional relevant information is later produced or provided to a State Attorney General, it shall also be produced to all Plaintiffs under the terms of any Order adopting a Discovery Plan; and~~

- vii. ~~Any response to investigations or inquiries related to insulin pricing brought by the United States Senate or House of Representatives, any committee or subcommittee thereof, and/or any other legislative, administrative, regulatory, or enforcement body, whether federal or state. If additional relevant information is later produced or provided to any such entity, committee, organization, or body, it shall also be produced to all Plaintiffs in the subject actions.~~

Dated:

Hon. Rukhsanah Singh, U.S.M.J.

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| Summary report: Litera Compare for Word 11.6.0.100 Document comparison done on 5/8/2024 3:50:22 PM | |
| Style name: JD Color | |
| Intelligent Table Comparison: Inactive | |
| Original filename: Plaintiffs' CMO Re Initial Discovery Plan 5.8.24.docx | |
| Modified filename: Defs Draft MDL Discovery Plan CMO (5.8 230 PM).docx | |
| Changes: | |
| <u>Add</u> | 80 |
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| Format changes | 0 |
| Total Changes: | 190 |